HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Petition No. 17770 of 2007

Between:

Dr. Sunanda Lakshman Gaddalay

… Petitioner

And

The Municipal Corporation of Greater Hyderabad,
Rep. by its Special Commissioner/Special Officer,
Hyderabad & others

… Respondents

:: O R D E R ::

Counsel for the petitioner : Smt. Neeraja Sudhakar

Counsel for respondent Nos. 1 to 5 : Shri R. Ramachandra Reddy

August 30, 2007

Per G.S. SINGHVI, CJ

In this petition, the petitioner has prayed for issue of a mandamus to the respondents to decide the representation/ complaint made by her and remove the alleged illegal/ unauthorized construction made by respondent Nos.7 to 9 in plot bearing No.4-1-248, Gulbagh, Hanuman Tekdi, Troop Bazar, Hyderabad.

A perusal of the record shows that the petitioner and respondent No.9 have longstanding dispute regarding construction in plots bearing Nos.4-1-248 and 4-1-249. Respondent Nos.7 to 9 filed Writ Petition No.7233 of 2007 with the complaint that the authorities of Greater Hyderabad Municipal Corporation are not taking action against the unauthorised construction being raised in Plot No.4-1-249

belonging to the petitioner. During the pendency of that petition, the concerned Municipal authority appears to have issued notice dated 16.4.2007 under Section 636 of the Hyderabad Municipal Corporation Act, 1955. According to the petitioner, she too complained against the illegal construction raised by respondent Nos.7 to 9; that O.S.No.3596 of 2003 filed on behalf of respondent Nos.7 to 9 was dismissed; that the appeal preferred against the order of the trial court was dismissed by Chief Judge, City Civil Court, Hyderabad, and that despite these developments, the official respondents have not taken steps to remove the illegal construction made by respondent Nos.7 to 9 in plot bearing No.4-1-248.

At the hearing, Shri R. Ramachandra Reddy, learned counsel for respondent Nos.1, 2 and 4 produced photostat copy of order dated 14.08.2007 passed by the VI Junior Civil Judge, City Civil Court, Hyderabad in I.A.No.488 of 2007 in O.S.No.4576 of 2007 filed by respondent No.7 and submitted that in the face of that order, the officers of the Municipal Corporation cannot demolish the construction made by respondent Nos.7 to 9.

We have considered the submission of Shri R. Ramachandra Reddy. The relevant extract of order dated 14.08.2007 reads as under:

> "Counter not filed. No representation from respondent till 3.30 p.m. Petitioner filed photographs showing stage of construction. Material on record warrants both parties should maintain status quo as on today with a direction not to change structure till filing of counter. Call on 3.9.2007."

In our opinion, during the pendency of the suit filed by respondent No.7 and subsistence of interim order passed by the trial Court, it is not possible for this Court to issue a mandamus to respondent Nos. 1, 2 and 4 to demolish the alleged illegal and unauthorized construction raised by respondent Nos. 7 to 9.

With the above observation, the writ petition is disposed of giving liberty to the petitioner to get herself impleaded as party in the civil suit and the application for interim relief filed by respondent No.7 and make attempt to persuade the trial Court to vacate the interim order.

If the trial Court vacates the order of status quo and no other Court passes an order of injunction in favour of respondent Nos.7 to 9 or anyone of them, then the concerned authority of the Municipal Corporation shall take appropriate action on the representation made by the petitioner.

As a sequel to disposal of the writ petition, W.P.M.P. No. 22786 of 2007 filed by the petitioner for interim relief is disposed of as infructuous.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

August 30, 2007

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